

9 FAM 40.66 NOTES

(TL:VISA-419; 05-30-2002)

9 FAM 40.66 N1 DOCUMENT FRAUD EXCLUSION

(TL:VISA-419; 05-30-2002)

Section 212(a)(6)(F) of the INA is a new addition to the list of exclusions which was created by the Congress in the *Immigration Act of 1990* (IMMACT90). It renders excludable any alien subject to a final order under an equally new provision of law which provides civil penalties for immigration related document fraud.

9 FAM 40.66 N2 SECTION 274C

(TL:VISA-419; 05-30-2002)

Section 544 of the IMMACT90 contains a provision creating new INA section 274C. This new section entitled "Penalties For Document Fraud" provides for civil penalties for persons determined by an administrative law judge to have been involved in virtually any activity regarding forged, altered or stolen documents for any purpose under the INA. The issuance of a final order under this section in the name of an alien deportable *renders the alien* ineligible for visa issuance.

9 FAM 40.66 N3 FINAL ORDER

(TL:VISA-46; 08-26-1991)

An order of the administrative law judge under section 274C becomes final thirty days after the date of issuance unless the Attorney General modifies or vacates the order within that period. A decision by the Attorney General modifying the original order shall be considered a final order.

9 FAM 40.66 N4 EFFECT OF APPEAL

(TL:VISA-85; 10-01-1993)

- a. A final order under section 274C may be appealed to the Court of Appeals within forty-five days of becoming final. Nevertheless, for the purpose of visa refusal, the order shall be considered final until such time as it is overturned.
- b. It is quite possible, depending upon the facts of the individual case, that an alien who is the subject of a final order under section 274C might also be ineligible under INA 212(a)(6)(C) - Misrepresentation or 212(a)(6)(B) Certain Aliens Previously Removed 212(a)(6)(E) - Smuggling.

9 FAM 40.66 N5 WAIVER PROVISION

(TL:VISA-419; 05-30-2002)

The Attorney General may, in his or her discretion, grant a waiver for humanitarian purposes to an alien ineligible to receive a visa under INA 212(a)(6)(F). The waiver under INA 212(d)(12) may be granted provided:

- (1) The alien is a lawful permanent resident alien who temporarily proceed abroad voluntarily and is otherwise admissible as a returning resident under INA 211(b); or*
- (2) The alien is seeking admission under INA 201(b)(2)(A) or 203(a); and*
 - (a) The offense was solely to assist the alien's spouse or child; and*
 - (b) No previous money penalty was imposed under INA 274(C).*